



# City of Carmel

## **Carmel Advisory Board of Zoning Appeals Regular Meeting Monday, September 26, 2005**

The regularly scheduled meeting of the Carmel Board of Zoning Appeals met at 6:00 PM on Monday, September 26, 2005, in the Council Chambers of City Hall, Carmel, Indiana. The meeting was called to order at 6:10 PM with the Pledge of Allegiance.

Members in attendance were Leo Dierckman, James Hawkins and Earlene Plavchak, thereby establishing a quorum. Angie Conn and Mike Hollibaugh represented the Department of Community Services. John Molitor, Legal Counsel, was also present.

Mr. Dierckman moved to approve the minutes of the July 25, 2005 meeting as submitted. The motion was seconded by Mrs. Plavchak and **APPROVED 3-0.**

Mr. Molitor gave the Legal Report. He stated there have been several cases in the last few years involving various Martin Marietta petitions. It appears that all but one of those cases are either settled or on their way to being settled. The remaining one is the appeal from the Board's affirmation of Mr. Hollibaugh's determination on the processing plant at its current location on the west side of Hazel Dell Parkway. The Court has called a status conference among the parties for October 19, at which time the parties will discuss with the Judge whether or not to keep this litigation going. Mr. Molitor has had direction from the Board at previous Executive Sessions, but after that conference the Board may wish to call another Executive Session to determine whether the Board wants to review the bidding at that point. He suggested that the Board have an Executive Session in conjunction with the October 24 regular BZA meeting.

### **H. Public Hearing.**

#### **1-5h. Meridian Corporate Plaza**

The applicant seeks the following use variance & development standards variance approvals:

<b>Docket No. 05080033 UV</b>	<b>ZO Chapter 23B.03</b>	<b>permitted uses</b>
<b>Docket No. 05080034 V</b>	<b>ZO Chapter 23B.08.01.C</b>	<b>build to lines</b>
<b>Docket No. 05080035 V</b>	<b>ZO Chapter 3.07</b>	<b>definition of sign area</b>
<b>Docket No. 05080036 V</b>	<b>ZO Chapter 25.07.02-10(c)</b>	<b>sign area per sign</b>
<b>Docket No. 05080037 V</b>	<b>ZO Chapter 25.07.02-10(b)</b>	<b># signs/ transfer of sq. ftg.</b>

The site is located at 401 Pennsylvania Pkwy. and is zoned B5 & B6/Business within the US 31 Overlay. Filed by Steve Granner of Bose McKinney & Evans for MCP Partners, LLC.

Present for the Petitioner: Taggart Birge, V.P. Market Officer, Lauth Property, 401 Pennsylvania Parkway. He presented for the use variance and build-to lines development standards variance. The site plan was shown. They will build Meridian Corporate Plaza Building #2 first on the west of the site plan. Meridian Corporate Plaza Building #3 is west of College Avenue. Both buildings are about 132,000 square feet useable. They are actively negotiating with tenants for Building #2. The buildings will be four-story, pre-cast concrete, curtain wall, Class A category which Carmel is accustomed to. The Board will listen to all the variances before taking a vote. For the first variance they are asking for one on-site delicatessen and one fitness center for the tenants, which are not permitted in this zoning district. There is a 90-foot build-to line immediately to the north of I-465, a 20-foot build-to line at Pennsylvania Parkway. Obviously the existing corporate headquarters were not built in compliance with these. They have developed the site plan with an architect consistent with the site and believe

this is the most aesthetic plan. If they followed the build-to lines, they would be building over a drainage easement along I-465. They are asking for 179 feet from the right-of-way of I-465 for Building #2 and 149 feet for Building #3. With regards to Pennsylvania Parkway, they are asking for 165 feet for Building #2 and 164 feet for Building #3 from the right-of-way.

Steve Granner, Zoning Consultant, 600 E 96th Street, Suite 500. He pointed out the variances needed for the signage. They are asking to box in the letters on the sign and add it to the boxed-in square footage of the logo. This is consistent with the signs on the south side of the site. The second sign variance allows one sign per street frontage. Building #3 has three frontages, so they are asking for three signs, one on I-465, College and Pennsylvania Parkway. Building #2 does not have frontage on College, but only on I-465 and Pennsylvania Parkway. They are asking for an additional sign for Building #2, so that both buildings can have 3 signs to be consistent and for marketing purposes. The existing building has a Lauth wall sign and ground sign. They are asking to allow a ground sign to identify each of the two new buildings, similar to the Lauth ground sign. Each would have the name of the building and the address for the building. The prime location for the wall signs would be Meridian or I-465. They are asking to be allowed to put the 3 wall signs on each building on any of ten locations on each building. They are showing five locations on the north end and five locations on the south end of each building. They would have no more than one sign on the east or west facades and no more than two signs on the facades facing the interstate or Pennsylvania Parkway. The site plan showed the proposed locations. The size, color and lighting criteria were included so that when Lauth is leasing the building they know what kind of sign they can promise tenants. In summary, they need a variance to how they determine the square footage, a variance for the third sign on Building #2, the size of the signs will be limited to 100 square feet maximum which was determined by dividing the square footage of the five signs they are permitted by five, and the ground sign along Pennsylvania Parkway for the building address.

Members of the public were invited to speak in favor or opposition to the petition; no one appeared.

Mrs. Conn gave the Department Report. This project is also going before the Plan Commission for the sign package, site layout and elevations. The Department feels it makes sense to include the delicatessen and fitness center in these office buildings. The variances for the signage go with the sign package that was proposed, so that the whole site has a cohesive look for this high visibility area. The Department recommends positive consideration of all docket numbers.

Mr. Dierckman asked them to commit that the delicatessen and fitness center would not be on any of the signs.

Mr. Birge confirmed that commitment.

Mr. Dierckman asked about the location of the ground signs.

Mr. Granner stated that they were on the site plan. One is on the entrance island and the existing sign is on the center entrance in the proposed new right-of-way. The two new signs will be further back.

Mr. Dierckman asked for clarification for the name of the building.

Mr. Granner stated it would be the Lauth logo and Meridian Corporate Plaza 2 or 3 and the address of the building.

Mr. Dierckman asked them to commit that the building would not be named after the tenant unless the tenant occupied a minimum of one floor (33,000 square feet) before the building ID ground signage would be changed to portray the tenant's name and would come before the Board again.

Mr. Hawkins asked about the signage and adjoining property.

Mr. Granner pointed out that it was listed in the packet and would be decided at Plan Commission. They would be similar to the signs on Parkwood. They will be internally lit white neon, black in the daytime and off-white at night. Mr. Granner stated there was a large buffer area to the north and the lighting should not trail off into the neighborhoods.

Mr. Dierckman moved to approve **Docket Nos. 05080033 UV, 05080034 V, 05080035 V, 05080036 V and 05080037 V, Meridian Corporate Plaza with the two commitments.** The motion was seconded by Mr. Hawkins and **APPROVED 3-0.**

Mr. Broach joined the Board at this time, 6:40 PM.

**6h. WITHDRAWN Appeal, Little Farms Addition, Lots 31-33 (replat)**

~~The applicant seeks to appeal the decision of the BZA, which approved a 25-ft front yard setback for a replat of Little Farms Addition, lots 31-33 within Home Place.~~

~~**Docket No. 05080027 A ——— ZO Chapter 30.01 ——— Appeals to the Board**~~

~~The site is located at 10423-25 Ethel Street and is zoned R-3/Residence.~~

~~Filed by Pat Robinson.~~

**7-9h. Carmel/Clay Historical Society**

The applicant seeks use variance approval for an archival & conservation center.

**Docket No. 05070022 UV** Chapter 8.01 permitted uses

**Docket No. 05070023 V** Chapter 23D.03.C.3.b(iv) 5-ft side yard setback

**Docket No. 05070024 V** Chapter 27.05 reduced parking spaces

The site is located at 211 First Street SW and is zoned R-2/Residence within the Old Town Character Subarea.

Filed by Tom Rumer of the Carmel/Clay Historical Society.

Present for the Petitioner: Tom Rumer, Historian of the Historical Society. The Architect, Mike Balay was also in attendance. This building was the former Monon Railroad Depot. It has visibility from the Monon Trail and is just a block south of Main Street and on the very edge of the Arts & Design District along Main Street. They want to construct a storage facility that will be atmospherically and temperature controlled for the manuscript collection, some small artifacts and the photograph collection. The Carmel/Clay Historical Society has a very impressive manuscript collection and historical documentation. The structure will be approximately 20 by 30 feet and will set close to the Monon Trail. Its outward appearance will look like the Depot Museum.

Members of the public were invited to speak in favor or opposition to the petition; no one appeared.

Mrs. Conn gave the Department Report. A 10-foot strip of this structure location will be on City property. The Historical Society will need an Encroachment Agreement. The City does not have any negative issues with that. She also pointed out the proposed signage in the packet. The Department recommended positive consideration of all docket numbers.

Mr. Hawkins asked about the faux windows.

Mike Balay, Architect stated they are faux windows because the sunlight would be harmful to the documents, but the faux windows add some interest to the elevation.

Mr. Dierckman moved to approve **Docket Nos. 05070022 UV, 05070023 V, 05070024 V, Carmel/Clay Historical Society.** The motion was seconded by Mr. Broach and **APPROVED 4-0.**

**10h. Burford Office Park**

The applicant seeks the following development standards variance:

**Docket No. 05080030 V                      ZO Chapter 23E.07.A.1.a                      Parking Area Landscaping**

The site is located at the 10400 block of N. Delaware/Pennsylvania Streets and is zoned R-1 & R-3 Residence, partly within the West Home Place Commercial Corridor Overlay.

Filed by Jim Shinaver of Nelson & Frankenberger for Burford Properties, LLC.

Present for the Petitioner: Jim Shinaver, Dr. Lynn Burford, the architect Shawn Curran of Curran Architecture and Debbie Shumate of Harding Dahm Grubb & Ellis. Because Dr. Burford's optometry practice is growing, she desires to relocate her business to an upgraded facility that can accommodate more patients. She has under contract four parcels located east and adjacent to Pennsylvania and just south of 106<sup>th</sup> Street. The parcels have already gone through the ADLS and DP process with the Plan Commission and rezone approval with the City Council. The only remaining issue relates to a landscaping issue in the buffer area on the eastern side of the site adjacent to a parking area. Exhibits were shown. The aggregate 10-foot bufferyard planting is required in the Home Place Overlay Ordinance. They are able to accommodate 7.5-foot bufferyard. The variance only applies to one small parking area, not the whole site. If the site were redesigned to comply with the 10-foot bufferyard, they would lose 14 parking spaces in this location. The number of parking spaces was an important issue with the Plan Commission. The Urban Forester, Scott Brewer, is supportive of the landscape plan.

Members of the public were invited to speak in favor or opposition to the petition; no one appeared.

Mrs. Conn gave the Department Report. This item has received approval from the Plan Commission and the Urban Forester. The Department recommended positive consideration.

Mr. Broach asked about the number of plants.

Mr. Shinaver stated there would be additional plantings required if they had the 10-foot space. All other areas have the number of required plants.

Mr. Hawkins asked about the house to the east of the property and access from Delaware.

Mr. Shinaver stated that Dr. Burford also owns that house. It was not subject to the rezone and is still residential. There are no plans for access from Delaware Street.

Mr. Broach moved to approve **Docket No. 05080030 V, Burford Office Park**. The motion was seconded by Mr. Dierckman and **APPROVED 4-0**.

**11h. Yorktown Woods, Lots 1-33**

The applicant seeks the following development standards variances on 29 lots:

**Docket No. 05080044 V                      ZO Chapter 26.02.07(B)                      setback for side-load garages**

The site is located south of Laura Visa Drive stub, east of SR 431.

The site is zoned R1/Residence, partly within the US 431 Overlay.

Filed by Charlie Frankenberger of Nelson & Frankenberger for MHE Development, LLC.

Present for the Petitioner: Charlie Frankenberger and Bob Ellis, MHE Development. An aerial photo was shared. This is a transitional site zoned S-1. On July 19, Primary Plat approval was given to develop this real estate into a subdivision. Open space is more than required, tree preservation is significant, density of use is less than permitted, and architectural commitments have been recorded. Yorktown Woods provides very desirable transition to Keystone Avenue. The homes will be upscale, \$350,000 to \$450,000. Yorktown Woods was approved through the Residential Open Space Ordinance. ROSO provides that qualifying subdivisions are

exempt from the yard requirements of the underlying zoning district. Consequently, Yorktown Woods, under ROSO is exempt from the front yard setback requirements of the R-1 district. Chapter 26 of the Zoning Ordinance provides that residences with side-loaded garages must set back 15 feet and the side loaded garage must be set back 25 feet. MHE proposes to provide side-loaded garages as opposed to homes with front-loaded garages. While the primary residence can be set back 25 feet, the side-loaded garage, located in front of the primary residence, cannot be set back 25 feet. Illustrations were shown. The variance will enhance Yorktown Woods. If the lots are deepened, they were push the drainage and utility easement into the tree preservation area. Moving the residences closer to the street can enhance the character of this neighborhood. With this setback there will be ample room for parking of four vehicles in the driveway without encroaching on the sidewalk.

Members of the public were invited to speak in favor or opposition to the petition.

Ann O'Hara, attorney with Church Church Hittle & Antrim, representing the Carmel High School Corporation. They were concerned because this subdivision is adjacent to the Carmel High School complex. They want to make sure reasonable efforts were made to buffer the property from the complex. The developer had indicated to Mr. Ron Farrand, Director of Facilities and Operations for the Carmel Schools, that they would take steps to notify potential purchasers of the existing school facility.

Rebuttal:

Mr. Frankenberger stated that Yorktown Woods was separated from the Carmel High School by Keystone Avenue. There will probably be more noise generated by Keystone Avenue than Carmel High School. Most people interested in purchasing a residence are aware of the surroundings

Mrs. Conn gave the Department Report. This development is a unique residential area with street trees and tree preservation areas. Moving the homes closer to the street will add to the character. The Department recommended positive consideration.

Mr. Dierckman wanted to know which of the 33 lots were excluded.

Mr. Frankenberger stated lots 1, 2 and 3 were excluded.

Mr. Dierckman asked about lots 4-14 and the tree preservation.

Mr. Frankenberger stated that those lots are deep enough, but they cannot move the tree preservation area, utilities and common area.

Mr. Dierckman stated that granting the approval would allow them to build more square footage on those lots.

Mr. Frankenberger stated that the homes with the side-loaded garages would be larger and more expensive. There is no tree preservation area behind lots 8-14. But without the variance, they could not move the homes back further. The tree preservation area is around the perimeter and they will save as many trees as possible.

Mr. Dierckman asked for a commitment not to disturb the mature trees.

Mrs. Conn stated there was platted tree preservation on the lots in question under Tab 4.

Mr. Dierckman wanted to preserve as many trees as possible and not sacrifice them for the side-loaded garages.

Mr. Dierckman moved to approve **Docket No. 05080044 V, Yorktown Woods, Lots 1-33**. The motion was seconded by Mrs. Plavchak and **APPROVED 4-0**.

**12-13h. Carmel Science and Technology Park, Blk 11- Medical Office Bldg**

The applicant seeks the following development standards variances:

**Docket No. 05080031 V    ZO Chapter 25.07.02-10(b)    two signs oriented north**

**Docket No. 05080032 V    ZO Chapter 25.07.02-10(d)(i)    directory sign height**

The site is located at the southwest corner of Carmel Dr. & Guilford Rd. and is zoned M-3/Manufacturing.    Filed by Mary Solada of Bingham McHale for BW Partners.

Present for the Petitioner: Mary Solada. She showed a picture of a building almost identical to the proposed building to show what the building would look like. The plan for this 50,000 square foot office building was approved last week at Plan Commission. This project will accommodate a major anchor tenant and other office users. The building will be oriented to face north and east and not straight north to south because of the retention pond on the east and visibility to Carmel Drive. They would be entitled to wall signage facing west and north. They would like to have two wall signs facing north and none facing west or south. The second variance relates to height of the directory signage. The packet shows directory signage on Guilford Road and 122<sup>nd</sup> Street. Because there may be up to six tenants in the building, they would like to bump up the height by one foot. Renderings were pointed out under Tab 5. There would be three identification signs for the site because of the ground sign. This signage is an attempt to make the building most visible. The building is more than 300 feet south of Carmel Drive.

Members of the public were invited to speak in favor or opposition to the petition; no one appeared.

Mrs. Conn gave the Department Report. The variance for one foot added to the sign height would make the sign only 6 feet tall and the Department recommended positive consideration. The Department had one concern for two signs oriented north. They wanted to know what would happen to 3 frontages, should the site be further developed, since the allowable signage is based on the site having 3 frontages. Other than that, the Department recommended positive consideration.

Ms. Solada stated they had submitted to the Plan Commission that they committed they would not seek or contest an additional curb cut onto Carmel Drive. Any additional buildings would have signage allowed under the Ordinance.

Signage for the parcel was discussed.

Ms. Solada did not feel that this parcel would be subdivided and would not be seeking other signage. She could stipulate that they did not have any desire to seek anything beyond what the Ordinance would permit.

Mr. Molitor stated that the City's concern was that the developer was clear that by granting these variances the City would not be setting a precedent.

Mr. Dierckman asked why they needed the extra foot on the ground sign.

Ms. Solada thought it would help with visibility of a panel for each tenant. If they do not have six tenants, they would not need the extra foot.

Mr. Dierckman felt they would erect a six foot sign no matter how many tenants. He felt five feet was adequate and they could come back if they had six tenants and needed the extra foot.

More discussion regarding the six-foot sign. According to the packet information, the sign appears to be over six feet. The rendering may not be in proportion.

Mr. Hawkins asked that they stipulate the sign not be more than six feet from the top to the bottom.

Mr. Broach moved to approve **Docket Nos. 05080031 V and 05080032 V, Carmel Science and Technology Park, Blk 11 – Medical Office Bldg.** The motion was seconded by Mrs. Plavchak. **Docket No. 05080031 V was APPROVED 4-0. Docket No. 05080032 V was TABLED with a vote 2-2,** with Broach and Dierckman casting the dissenting votes.

**14h. Little Farms, Lot 16pt (lot size)**

Applicant proposes to split his lot and seeks the following development standards variance:

**Docket No. 05080038 V ZO Chapter 9.04.02.D minimum lot size**

The site is located at 10506 Combs Ave and is zoned R-3/Residence within the Home Place Overlay. Filed by Shahpor Shahbahrani.

Present for the Petitioner: Shahpor Shahbahrani stated there is a residence on this corner lot and he would like to divide the parcel into two lots.

Members of the public were invited to speak in favor or opposition to the petition.

Andrea Hern, 1201 E. 106<sup>th</sup> Street had concerns regarding the replat. The general area has lots between one-half and one acre with houses in the general area of \$300,000+. This smaller lot is not the norm in the area. He does not have a sure plan as to what he is going to do. She felt he would put a double on the extra parcel. He has made some efforts to clean up the property. However, there had been a transient living in the house that has had legal issues. There has been a criminal element with drug dealing. There are many children in the area and they would like to maintain their area.

Ellen Ballock 1196 E. 105<sup>th</sup> Street. Her husband is an FBI agent who knows many officers on the Crime Task Force and they are trying to clean-up the area. She did not feel that Mr. Shahbahrani had a clear plan for the property.

Rebuttal:

Mr. Shahbahrani was not changing the neighborhood. There are small houses in the area. If he builds something, it will be to Carmel standards and he will live in half of it. He did not know about the crime. He had a good heart and he let the man live there until he could find a place. He is going to spend \$30,000 fixing it up and bringing water lines to the house. He was going to do it to have a nice place.

Mrs. Conn gave the Department Report. This area is zoned R-3 and is in the Home Place Overlay. The minimum lot size is 8000 square feet. The proposed lot sizes would be 7820 square feet. There are smaller parcels east of this site and Home Place, as a whole, is a high density area. The Department recommended favorable consideration. If the Board has any concerns, they could stipulate commitments.

Mrs. Plavchak asked if there were any plans for the Department to review.

Mrs. Conn stated that the Petitioner wanted the variance first to see if it was feasible before seeking a replat which would then go through a Public Hearing.

Mr. Molitor stated that the plat would not be eligible for approval by the Plan Commission without this variance. The BZA can impose reasonable conditions on any development on the site.

Mr. Dierckman asked if a duplex was a permitted use on 8,000 square feet.

Mrs. Conn stated that the packet showed a proposed duplex on the site that might need additional variances for side yard setback, etc. The main concern of the Petitioner was whether he could even do it.

Mr. Dierckman asked how long the 8000 square foot rule had been in effect.

Mrs. Conn was not positive.

Mr. Broach stated that these 14 lots along 106<sup>th</sup> were very long and deep. It appeared that a couple of them had already been split.

Mrs. Conn stated that if it was able to meet the minimum lot requirements, it would not come before the BZA.

Mr. Broach felt the character of the area was single family homes with the long, deep lots. He was not favorably inclined based on the adjacent uses. He asked the Department if the two parcels that had been split had separate structures on each plat. Is it fair to the rest of the homeowners if they start splitting lots?

Mrs. Conn thought it appeared from the aerial photo that each parcel had a structure.

Mr. Dierckman said it would only work for the ones along the road or the back lot would not have access.

Mr. Shahbahrami stated that he would not necessarily build a duplex, but would probably build a house. He was concerned about the approval for future building.

Mr. Hawkins asked if there was a commitment he could make that once he got his plans, he would bring them back to show the Board to seek approval.

Mr. Molitor suggested the Board could ask the Petitioner to come back for an ADLS review.

Mr. Dierckman felt they did not have enough information. It can be difficult when someone does not live there and sells the house off and the lot just sets there. That can have an adverse effect.

Mrs. Plavchak moved to approve **05080038 V, Little Farms, Lot 16 pt (lot size)**. The motion was seconded by Mr. Dierckman and **DENIED 0-4**.

I. Old Business.

There was no Old Business.

J. New Business.

Time for an Executive Session was discussed. The Board will meet in Executive Session at 5:30 PM before the regular Board meeting on Monday, October 24, 2005.

K. Adjourn.

Mr. Dierckman moved to adjourn. The motion was seconded by Mrs. Plavchak and **APPROVED 4-0**. The meeting was adjourned at 7:55 PM.

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James R. Hawkins, President

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Connie Tingley, Secretary